

Calendar No. 751

108TH CONGRESS
2D SESSION**S. 2843**

To make technical corrections to laws relating to Native Americans, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2004

Mr. CAMPBELL introduced the following bill; which was read twice and
referred to the Committee on Indian Affairs

SEPTEMBER 30, 2004

Reported by Mr. CAMPBELL, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To make technical corrections to laws relating to Native
Americans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native American Tech-
5 nical Corrections Act of 2004”.

1 **SEC. 2. DEFINITION OF SECRETARY.**

2 In this Act, the term “Secretary” means the Sec-
3 retary of the Interior.

4 **SEC. 3. INDIAN ARTS AND CRAFTS ACT AMENDMENTS.**

5 (a) POWERS OF THE INDIAN ARTS AND CRAFTS
6 BOARD.—Section 2 of the Act of August 27, 1935 (25
7 U.S.C. 305a), is amended by inserting before the period
8 at the end the following: “; (j) to investigate violations
9 of this Act; (k) to enforce this Act through the imposition
10 of penalties for violations under section 6; (l) to request
11 the Secretary of the Interior, with advice of the Solicitor,
12 to enforce this Act through injunctive relief; (m) notwith-
13 standing any other provision of law, to enter into reim-
14 bursable support agreements with Federal, State, tribal,
15 regional, and local investigative or law enforcement enti-
16 ties in furtherance of the purposes and provisions of this
17 Act”.

18 (b) APPROPRIATIONS.—Section 4 of the Act of Au-
19 gust 27, 1935 (25 U.S.C. 305c), is amended to read as
20 follows:

21 **“SEC. 4. APPROPRIATIONS.**

22 “(a) IN GENERAL.—There are authorized to be ap-
23 propriated such sums as are necessary to pay the expenses
24 of the Board and carry out this Act.

25 “(b) FUND.—All income received by the Board from
26 any source shall be deposited in a special fund, which shall

1 be available to be expended by the Board, without further
 2 appropriation, to carry out this Act.

3 “(c) USE OF AMOUNTS.—Amounts received by the
 4 Board resulting from any civil action or enforcement ac-
 5 tion brought under this Act may be used by the Board
 6 consistent with this Act, as necessary for the accomplish-
 7 ment for the purposes of this Act.”.

8 (c) REFERRAL FOR CRIMINAL AND CIVIL VIOLA-
 9 TIONS; COMPLAINTS; RECOMMENDATIONS.—Section 5 of
 10 the Act of August 27, 1935 (25 U.S.C. 305d), is amended
 11 to read as follows:

12 **“SEC. 5. REFERRAL FOR CRIMINAL AND CIVIL PRO-**
 13 **CEEDINGS.**

14 “(a) CRIMINAL PROCEEDINGS.—

15 “(1) INVESTIGATION.—The Board shall inves-
 16 tigate violations of section 1159 of title 18, United
 17 States Code.

18 “(2) ACTION BY THE BOARD.—After an inves-
 19 tigation is complete, or at any time during an inves-
 20 tigation, the Board may—

21 “(A) refer the matter to the Attorney Gen-
 22 eral for additional investigation; and

23 “(B) recommend to the Attorney General
 24 that criminal proceedings be brought under sec-
 25 tion 1159 of title 18, United States Code.

1 “(b) CIVIL PROCEEDINGS.—

2 “(1) INVESTIGATIONS.—The Board shall inves-
3 tigate violations of section 6.

4 “(2) ACTION BY THE BOARD.—After an inves-
5 tigation is complete, or at any time during an inves-
6 tigation, the Board may—

7 “(A) levy penalties in accordance with sec-
8 tion 6; or

9 “(B) refer the matter to the Attorney Gen-
10 eral for civil action under section 6.

11 “(c) MANDATORY INVESTIGATIONS.—The Board
12 shall receive and investigate all complaints of violations
13 of section 1159 of title 18, United States Code, and sec-
14 tion 6.”.

15 (d) CAUSE OF ACTION FOR MISREPRESENTATION OF
16 INDIAN-PRODUCED GOODS.—Section 6 of the Act of Au-
17 gust 27, 1935 (25 U.S.C. 305e), is amended to read as
18 follows:

19 **“SEC. 6. CAUSE OF ACTION FOR MISREPRESENTATION OF**
20 **INDIAN-PRODUCED GOODS.**

21 “(a) DEFINITIONS.—In this section:

22 “(1) INDIAN.—The term ‘Indian’ means—

23 “(A) an individual who is a member of an
24 Indian tribe; and

1 “(B) an individual who, for the purposes of
2 this section, is certified as an Indian artisan by
3 an Indian tribe.

4 “(2) INDIAN PRODUCT.—Subject to subsection
5 (g), the term ‘Indian product’ has the meaning given
6 the term in regulations that may be promulgated by
7 the Secretary.

8 “(3) INDIAN TRIBE.—The term ‘Indian tribe’
9 means—

10 “(A) an Indian tribe, band, nation, Alaska
11 native village, or other organized group or com-
12 munity that is recognized as eligible for the spe-
13 cial programs and services provided by the
14 United States to Indians because of their status
15 as Indians; and

16 “(B) an Indian group that has been for-
17 mally recognized as an Indian tribe by a State
18 legislature or by a State commission or similar
19 organization legislatively vested with State trib-
20 al recognition authority.

21 “(4) PRODUCT OF A PARTICULAR INDIAN TRIBE
22 OR INDIAN ARTS AND CRAFTS ORGANIZATION.—Sub-
23 ject to subsection (g), the term ‘product of a par-
24 ticular Indian tribe or Indian arts and crafts organi-

1 zation’ has the meaning given the term in regula-
 2 tions that may be promulgated by the Secretary.

3 “(5) SECRETARY.—The term ‘Secretary’ means
 4 the Secretary of the Interior.

5 “(b) IMPOSITION OF PENALTIES BY THE BOARD.—

6 “(1) IN GENERAL.—The Board may impose a
 7 civil penalty against a person that, directly or indi-
 8 rectly, offers or displays for sale or sells a good, with
 9 or without a Government trademark, in a manner
 10 that falsely suggests that the good is Indian-pro-
 11 duced, an Indian product, or the product of a par-
 12 ticular Indian or Indian tribe or Indian arts and
 13 crafts organization resident within the United
 14 States.

15 “(2) AMOUNT.—A civil penalty under para-
 16 graph (1) shall not exceed 100 percent of the price
 17 of the goods offered or displayed for sale in violation
 18 of the Act, not to exceed \$500,000 per person, per
 19 violation.

20 “(3) FACTORS AFFECTING PENALTY
 21 AMOUNT.—In determining the amount of a civil pen-
 22 alty to be imposed, the Board shall consider—

23 “(A) the severity of the violation;

24 “(B) any history of prior violations; and

1 “(C) whether the amount of the civil pen-
2 alty will be likely to deter future violations.

3 “(4) INJUNCTIVE RELIEF.—If the Board deter-
4 mines that enforcement of this Act under this sec-
5 tion will be insufficient to avoid irreparable harm,
6 the Board, with the concurrence of the Solicitor of
7 the Department of the Interior, may request the
8 Secretary to seek injunctive relief in accordance with
9 section 2 in a court of competent jurisdiction.

10 “(5) NOTICE AND APPEAL OF BOARD DETER-
11 MINATION.—

12 “(A) NOTICE.—

13 “(i) IN GENERAL.—If, as a result of
14 an investigation conducted by the Board, it
15 is determined that a violation of this Act
16 has occurred, the Board may, at any time
17 during the investigation, notify the person
18 under investigation regarding the nature of
19 the alleged violation.

20 “(ii) CONTENT.—A notice under
21 clause (i) shall include, at a minimum—

22 “(I) a detailed description of the
23 violation;

24 “(II) possible remedies, if appro-
25 priate;

1 “(III) opportunity to cure, if ap-
 2 propriate; and

3 “(IV) any other information that
 4 the Board considers necessary.

5 “(B) APPEAL.—Any person determined to
 6 be in violation of this Act under this subsection
 7 may appeal the Board’s findings and imposition
 8 of civil penalties to the Office of Hearings and
 9 Appeals of the Department of the Interior in
 10 accordance with part 4 of title 43, Code of Fed-
 11 eral Regulations (or any successor regulation).

12 “(c) INJUNCTIVE OR EQUITABLE RELIEF; DAM-
 13 AGES.—

14 “(1) IN GENERAL.—A person specified in sub-
 15 section (e) may, in a civil action in a court of com-
 16 petent jurisdiction, bring an action against a person
 17 that, directly or indirectly, offers or displays for sale
 18 or sells a good, with or without a government trade-
 19 mark, in a manner that falsely suggests that the
 20 good is Indian-produced, an Indian product, or the
 21 product of a particular Indian or Indian tribe or In-
 22 dian arts and crafts organization resident within the
 23 United States, to—

24 “(A) obtain injunctive or other equitable
 25 relief; and

1 “(B) recover the greater of—

2 “(i) treble damages; or

3 “(ii) in the case of each aggrieved in-
4 dividual Indian, Indian tribe, or Indian
5 arts and crafts organization, not less than
6 \$1,000 for each day on which the offer or
7 display for sale or sale continues.

8 “(2) DAMAGES.—For purposes of paragraph
9 (1)(B)(i), damages include all gross profits realized
10 by the defendant as a result of the activities found
11 in violation of this subsection.

12 “(d) PUNITIVE DAMAGES; ATTORNEY’S FEE.—In ad-
13 dition to the relief specified in subsection (c), the court
14 may award punitive damages, and costs of the civil action,
15 and a reasonable attorney’s fee.

16 “(e) PERSONS WHO MAY INITIATE CIVIL AC-
17 TIONS.—

18 “(1) IN GENERAL.—A civil action under sub-
19 section (b) may be brought—

20 “(A) by the Attorney General, on request
21 of the Secretary on behalf of—

22 “(i) an Indian tribe;

23 “(ii) an Indian; or

24 “(iii) an Indian arts and crafts orga-
25 nization;

1 “(B) by an Indian tribe on behalf of itself,
2 an Indian, or an Indian arts and crafts organi-
3 zation;

4 “(C) by an Indian; or

5 “(D) by an Indian arts and crafts organi-
6 zation.

7 “(2) DISPOSITION OF AMOUNTS RECOVERED.—

8 Any amount recovered under this section shall be
9 paid to the Indian tribe, Indian, or Indian arts and
10 crafts organization, except that—

11 “(A) in the case of a civil action under
12 paragraph (1)(A), the Attorney General may
13 deduct from the amount recovered—

14 “(i) the amount for the costs of the
15 civil action and reasonable attorney’s fee
16 awarded pursuant to subsection (d), to be
17 deposited in the Treasury of the United
18 States and credited to appropriations cur-
19 rently available to the Attorney General at
20 the time of receipt of the amount; and

21 “(ii) the amount for the costs of in-
22 vestigation awarded pursuant to subsection
23 (d), to be used to reimburse the Board the
24 amount of such costs incurred as a direct
25 result of Board activities in the civil action;

1 “(B) in the case of a civil action under
 2 paragraph (1)(B), the amount recovered for the
 3 costs of the civil action and reasonable attor-
 4 ney’s fee pursuant to subsection (d) may be de-
 5 ducted.

6 “(f) SEVERABILITY.—If any provision of this section
 7 is held invalid, it is the intent of Congress that the remain-
 8 ing provisions of this section shall continue in full force
 9 and effect.

10 “(g) REGULATIONS.—Not later than 180 days after
 11 the date of enactment of this subsection, the Board shall
 12 promulgate regulations to include in the definition of the
 13 term ‘Indian product’ specific examples of each such prod-
 14 uct to provide guidance to Indian artisans and to pur-
 15 veyors and consumers of Indian arts and crafts.”.

16 **SEC. 4. INDIAN FINANCING ACT AMENDMENTS.**

17 (a) SALE OR ASSIGNMENT OF LOANS AND UNDER-
 18 LYING SECURITY.—Section 205 of the Indian Financing
 19 Act of 1974 (25 U.S.C. 1485) is amended—

20 (1) by striking “SEC. 205.” and all that follows
 21 through subsection (b) and inserting the following:

1 **“SEC. 205. SALE OR ASSIGNMENT OF LOANS AND UNDER-**
 2 **LYING SECURITY.**

3 “(a) IN GENERAL.—All or any portion of a loan
 4 guaranteed or insured under this title, including the secu-
 5 rity given for the loan—

6 “(1) may be transferred by the lender by sale
 7 or assignment to any person; and

8 “(2) may be retransferred by the transferee.

9 “(b) TRANSFERS OF LOANS.—With respect to a
 10 transfer described in subsection (a)—

11 “(1) the transfer shall be consistent with such
 12 regulations as the Secretary shall promulgate under
 13 subsection (h); and

14 “(2) the transferee shall give notice of the
 15 transfer to the Secretary.”;

16 (2) by striking subsection (c);

17 (3) by redesignating subsections (d), (e), (f),
 18 (g), (h), and (i) as subsections (c), (d), (e), (f), (g),
 19 and (h), respectively;

20 (4) in subsection (c) (as redesignated by para-
 21 graph (3))—

22 (A) by striking “VALIDITY.—” and all that
 23 follows through “subparagraph (B),” and in-
 24 serting “VALIDITY.—Except as provided by reg-
 25 ulations in effect on the date on which a loan
 26 is made,”; and

1 (B) by striking “incontestable” and all
2 that follows and inserting “incontestable.”;

3 (5) in subsection (e) (as redesignated by para-
4 graph (3))—

5 (A) by striking “The Secretary” and in-
6 serting the following:

7 “(1) IN GENERAL.—The Secretary”; and

8 (B) by adding at the end the following:

9 “(2) COMPENSATION OF FISCAL TRANSFER
10 AGENT.—A fiscal transfer agent designated under
11 subsection (f) may be compensated through any of
12 the fees assessed under this section and any interest
13 earned on any funds or fees collected by the fiscal
14 transfer agent while the funds or fees are in the con-
15 trol of the fiscal transfer agent and before the time
16 at which the fiscal transfer agent is contractually re-
17 quired to transfer such funds to the Secretary or to
18 transferees or other holders.”; and

19 (6) in subsection (f) (as redesignated by para-
20 graph (3))—

21 (A) by striking “subsection (i)” and insert-
22 ing “subsection (h)”;

23 (B) in paragraph (2)(B), by striking “,
24 and issuance of acknowledgments,”.

1 **SEC. 5. INDIAN PUEBLO LAND ACT AMENDMENTS.**

2 (a) IN GENERAL.—The Act of June 7, 1924 (43 Stat.
3 636, chapter 331), is amended by adding at the end the
4 following:

5 **“SEC. 20. CRIMINAL JURISDICTION.**

6 “(a) IN GENERAL.—Except as otherwise provided by
7 Congress, jurisdiction over offenses committed anywhere
8 within the exterior boundaries of any grant from a prior
9 sovereign, as confirmed by Congress or the Court of Pri-
10 vate Land Claims to a Pueblo Indian tribe of New Mexico,
11 shall be as provided in this section.

12 “(b) JURISDICTION OF THE PUEBLO.—The Pueblo
13 has jurisdiction, as an act of the Pueblos’ inherent power
14 as an Indian tribe, over any offense committed by a mem-
15 ber of the Pueblo or of another federally recognized Indian
16 tribe, or by any other Indian-owned entity.

17 “(c) JURISDICTION OF THE UNITED STATES.—The
18 United States has jurisdiction over any offense described
19 in chapter 53 of title 18, United States Code, committed
20 by or against a member of any federally recognized Indian
21 tribe or any Indian-owned entity, or that involves any In-
22 dian property or interest.

23 “(d) JURISDICTION OF THE STATE OF NEW MEX-
24 ICO.—The State of New Mexico shall have jurisdiction
25 over any offense committed by a person who is not a mem-

ber of a federally recognized Indian tribe, which offense
is not subject to the jurisdiction of the United States.”.

**SEC. 6. INDIAN REORGANIZATION ACT CORPORATION
AMENDMENT.**

Section 17 of the Act of June 18, 1936 (25 U.S.C.
477) (commonly known as the “Indian Reorganization
Act”) is amended in the second sentence by striking “~~with~~
~~law~~” and all that follows through “~~twenty-five~~” and insert-
ing “~~with law, and not for purposes of conducting gaming~~
~~(within the meaning of section 4 of the Indian Gaming~~
~~Regulatory Act (25 U.S.C. 2703))~~, but no authority shall
be granted to sell or mortgage or to lease for a period
exceeding 99”. “*sell,*” and all that follows and inserting
“*sell or mortgage, or to lease as lessor for a period exceeding*
99 years, for any trust or restricted land included in the
limits of the reservation, except that such authority may
not exceed 25 years in the case of activities authorized
under the Indian Gaming Regulatory Act (25 U.S.C. 2701
et seq.).”.

SEC. 7. PRAIRIE ISLAND LAND CONVEYANCE.

(a) IN GENERAL.—The Secretary of the Army shall
convey all right, title, and interest of the United States
in and to the land described in subsection (b), including
all improvements, cultural resources, and sites on the land,
subject to the flowage and sloughing easement described

1 in subsection (d) and to the conditions stated in subsection
 2 (f), to the Secretary, to be—

3 (1) held in trust by the United States for the
 4 benefit of the Prairie Island Indian Community in
 5 Minnesota; and

6 (2) included in the Prairie Island Indian Com-
 7 munity Reservation in Goodhue County, Minnesota.

8 (b) LAND DESCRIPTION.—The land to be conveyed
 9 under subsection (a) is the approximately 1290 acres of
 10 land associated with the Lock and Dam #3 on the Mis-
 11 sissippi River in Goodhue County, Minnesota, located in
 12 tracts identified as GO-251, GO-252, GO-271, GO-277,
 13 GO-278, GO-284, GO-301 through GO-313, GO-314A,
 14 GO-314B, GO-329, GO-330A, GO-330B, GO-331A,
 15 GO-331B, GO-331C, GO-332, GO-333, GO-334, GO-
 16 335A, GO-335B, GO-336 through GO-338, GO-339A,
 17 GO-339B, GO-339C, GO-339D, GO-339E, GO-340A,
 18 GO-340B, GO-358, GO-359A, GO-359B, GO-359C,
 19 GO-359D, and GO-360, as depicted on the map entitled
 20 “United States Army Corps of Engineers survey map of
 21 the Upper Mississippi River 9-Foot Project, Lock & Dam
 22 No. 3 (Red Wing), Land & Flowage Rights” and dated
 23 December 1936.

24 (c) BOUNDARY SURVEY.—Not later than 5 years
 25 after the date of conveyance under subsection (a), the

1 boundaries of the land conveyed shall be surveyed as pro-
2 vided in section 2115 of the Revised Statutes (25 U.S.C.
3 176).

4 (d) EASEMENT.—

5 (1) IN GENERAL.—The Corps of Engineers
6 shall retain a flowage and sloughing easement for
7 the purpose of navigation and purposes relating to
8 the Lock and Dam No. 3 project over the portion of
9 the land described in subsection (b) that lies below
10 the elevation of 676.0.

11 (2) INCLUSIONS.—The easement retained under
12 paragraph (1) includes—

13 (A) the perpetual right to overflow, flood,
14 and submerge property as the District Engineer
15 determines to be necessary in connection with
16 the operation and maintenance of the Mis-
17 sissippi River Navigation Project; and

18 (B) the continuing right to clear and re-
19 move any brush, debris, or natural obstructions
20 that, in the opinion of the District Engineer,
21 may be detrimental to the project.

22 (e) OWNERSHIP OF STURGEON LAKE BED UNAF-
23 FECTED.—Nothing in this section diminishes or otherwise
24 affects the title of the State of Minnesota to the bed of

1 Sturgeon Lake located within the tracts of land described
2 in subsection (b).

3 (f) CONDITIONS.—The conveyance under subsection
4 (a) is subject to the conditions that the Prairie Island In-
5 dian Community shall not—

6 (1) use the conveyed land for human habitation;

7 (2) construct any structure on the land without
8 the written approval of the District Engineer; or

9 (3) conduct gaming (within the meaning of sec-
10 tion 4 of the Indian Gaming Regulatory Act (25
11 U.S.C. 2703)) on the land.

12 (g) NO EFFECT ON ELIGIBILITY FOR CERTAIN
13 PROJECTS.—Notwithstanding the conveyance under sub-
14 section (a), the land shall continue to be eligible for envi-
15 ronmental management planning and other recreational or
16 natural resource development projects on the same basis
17 as before the conveyance.

18 (h) EFFECT OF SECTION.—Nothing in this section
19 diminishes or otherwise affects the rights granted to the
20 United States pursuant to letters of July 23, 1937, and
21 November 20, 1937, from the Secretary to the Secretary
22 of War and the letters of the Secretary of War in response
23 to the Secretary dated August 18, 1937, and November
24 27, 1937, under which the Secretary granted certain
25 rights to the Corps of Engineers to overflow the portions

1 of Tracts A, B, and C that lie within the Mississippi River
 2 9-Foot Channel Project boundary and as more particu-
 3 larly shown and depicted on the map entitled “United
 4 States Army Corps of Engineers survey map of the Upper
 5 Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red
 6 Wing), Land & Flowage Rights” and dated December
 7 1936.

8 **SEC. 8. GILA RIVER INDIAN COMMUNITY MANDATORY**
 9 **BINDING ARBITRATION.**

10 (a) AMENDMENTS.—Subsection (f) of the first sec-
 11 tion of the Act of August 9, 1955 (25 U.S.C. 415(f)), is
 12 amended—

13 (1) in the first sentence—

14 (A) by striking “Any lease” and all that
 15 follows through “affecting land” and inserting
 16 “Any contract, including a lease, affecting
 17 land”; and

18 (B) in the second sentence, by striking
 19 “such leases or contracts entered into pursuant
 20 to such Acts” and inserting “Such contracts”.

21 (b) EFFECTIVE DATE.—The amendments made by
 22 subsection (a) shall take effect as if included in the Act
 23 of August 9, 1955 (69 Stat. 539, chapter 615) and Public
 24 107–159 (116 Stat. 122).

1 **SEC. 9. ALASKA NATIVE CLAIMS SETTLEMENT ACT VOTING**
 2 **STANDARDS AMENDMENT.**

3 (a) IN GENERAL.—Subsection (d)(3) of section 36 of
 4 the Alaska Native Claims Settlement Act (43 U.S.C.
 5 1629b) (as amended by subsection (b)) is amended—

6 (1) by inserting after “of this section” the fol-
 7 lowing: “or an amendment to the articles of incorpo-
 8 ration described in section 7(g)(1)(B)”;

9 (2) by inserting “or amendment” after “meet-
 10 ing relating to such resolution” each place it ap-
 11 pears.

12 (b) TECHNICAL CORRECTIONS.—

13 (1)(A) Section 337(a) of the Department of the
 14 Interior and Related Agencies Appropriations Act,
 15 2003 (Division F of Public Law 108–7; 117 Stat.
 16 278; February 20, 2003) is amended—

17 (i) in the matter preceding paragraph (1),
 18 by striking “Section 1629b of title 43, United
 19 States Code,” and inserting “Section 36 of the
 20 Alaska Native Claims Settlement Act (43
 21 U.S.C. 1629b)”;

22 (ii) in paragraph (2), by striking “by cre-
 23 ating the following new subsection:” and insert-
 24 ing “in subsection (d), by adding at the end the
 25 following:”.

1 (B) Section 36 of the Alaska Native Claims
2 Settlement Act (43 U.S.C. 1629b) is amended—

3 (i) in subsection (d)(3), by striking “(d)”;

4 and

5 (ii) in subsection (f), by striking “section
6 1629e of this title” and inserting “section 39”.

7 (2)(A) Section 337(b) of the Department of the
8 Interior and Related Agencies Appropriations Act,
9 2003 (Division F of Public Law 108–7; 117 Stat.
10 278; February 20, 2003) is amended by striking
11 “Section 1629e(a)(3) of title 43, United States
12 Code,” and inserting “Section 39(a)(3) of the Alas-
13 ka Native Claims Settlement Act (43 U.S.C.
14 1629e(a)(3))”.

15 (B) Section 39(a)(3)(B)(ii) of the Alaska Na-
16 tive Claims Settlement Act (43 U.S.C.
17 1629e(a)(3)(B)(ii)) is amended by striking “(a)(4)
18 of section 1629b of this title” and inserting “section
19 36(a)(4)”.

20 (3) The amendments made by this subsection
21 take effect on February 20, 2003.

22 **SEC. 10. BEAVER AIRPORT LAND AMENDMENT.**

23 (a) IN GENERAL.—The Secretary shall execute such
24 instruments as are necessary to release the condition on
25 a portion of land situated adjacent to the community of

1 Beaver, Alaska, conveyed pursuant to Patent No. 50–69–
2 0130 and dated August 23, 1968, that the land revert to
3 the United States if the land is not used for airport pur-
4 poses.

5 (b) TRACTS.—The release of the condition provided
6 for in subsection (a)—

7 (1) shall apply to approximately 33 acres of
8 land identified as tracts II through VI of the Beaver
9 Airport, a part of U.S. Survey No. 3798, Alaska (re-
10 ferred to in this section as the “community expan-
11 sion land”);

12 (2) shall be without any requirement for receipt
13 of fair market value for the release and conveyance
14 of the conditions otherwise applicable to the commu-
15 nity expansion land; and

16 (3) shall be contingent on the conveyance by
17 the State of Alaska of the community expansion
18 land to the Beaver Kwit’chin corporation, the Village
19 Corporation of the village of Beaver, Alaska.

20 (c) RECONVEYANCE.—The Beaver Kwit’chin Cor-
21 poration—

22 (1) shall reconvey to any individual who cur-
23 rently occupies a portion of the land, or successor in
24 interest to such an individual, title to such land as
25 is currently occupied; and

1 (2) may subsequently—

2 (A) convey the remaining land to other in-
3 dividuals or persons for community expansion
4 purposes; or

5 (B) retain the remaining land in whole or
6 in part for community uses.

7 **SEC. 11. PUYALLUP INDIAN TRIBE LAND CLAIMS SETTLE-**
8 **MENT AMENDMENTS.**

9 (a) IN GENERAL.—~~Notwithstanding any other provi-~~
10 ~~sion of law, the~~ *The* Secretary shall—

11 (1) accept the conveyance of the parcels of land
12 within the Puyallup Reservation described in sub-
13 section (b); and

14 (2) hold the land in trust for the benefit of the
15 Puyallup Indian Tribe.

16 (b) LAND DESCRIPTION.—The parcels of land re-
17 ferred to in subsection (a) are as follows:

18 (1) PARCEL A.—Lot B, boundary line adjust-
19 ment 9508150496: according to the map thereof re-
20 corded August 15, 1995, records of Pierce County
21 Auditor, situate in the city of Fife, county of Pierce,
22 State of Washington.

23 (2) PARCEL B.—Lots 3 and 4, Pierce County
24 Short Plat No. 8908020412: according to the map
25 thereof recorded August 2, 1989, records of Pierce

County Auditor, together with portion of SR 5 abutting lot 4, conveyed by deed recorded under recording number 9309070433, described as follows:

That portion of Government lot 1, sec. 07, T. 20 N., R. 4 E., of the Willamette Meridian, described as commencing at Highway Engineer's Station (hereinafter referred to as HES) AL 26 6+38.0 P.O.T. on the AL26 line survey of SR 5, Tacoma to King County line: Thence S88°54'30" E., along the north line of said lot 1 a distance of 95 feet to the true point of beginning: Thence S01°05'30" W87.4' feet: Thence westerly to a point opposite HES AL26 ~~5+0.6~~ 5+50.6 P.O.T. on said AL26 line survey and 75 feet easterly therefrom; Thence northwesterly to a point opposite AL26 5+80.6 on said AL26 line survey and 55 feet easterly therefrom: Thence northerly parallel with said line survey to the north line of said lot 1: Thence N88°54'30" E., to the true point of beginning.

Except that portion of lot 4 conveyed to the State of Washington by deed recorded under recording number 9308100165 and more particularly described as follows:

1 Commencing at the northeast corner of
 2 said lot 4: Thence ~~N80°53'30"~~ N89°53'30" W.,
 3 along the north line of said lot 4 a distance of
 4 147.44 feet to the true point of beginning and
 5 a point of curvature; thence southwesterly along
 6 a curve to the left, the center of which bears
 7 S0°06'30" W., 55.00 feet distance, through a
 8 central angle of 89°01'00", an arc distance of
 9 85.45 feet; Thence S01°05'30" W., 59.43 feet;
 10 Thence N88°54'30" W., 20.00 feet to a point
 11 on the westerly line of said lot 4; Thence
 12 N0°57'10" E., along said westerly line 113.15
 13 feet to the northwest corner of said lot 4;
 14 Thence S89°53'30" east along said north line,
 15 a distance of 74.34 feet to the true point of be-
 16 ginning.

17 Chicago Title Insurance Company Order
 18 No. 4293514 Lot A boundary line adjustment
 19 recorded under Recording No. 9508150496. Ac-
 20 cording to the map thereof recorded August 15,
 21 1995, records of Pierce County Auditor.

22 Situate in the city of Fife, county of
 23 Pierce, State of Washington.

24 (3) *ADDITIONAL LOTS.*—*Any lots acquired by the*
 25 *Tribe located in block 7846, 7850, 7945, 7946, 7949,*

1 7950, 8045, or 8049 in the Indian Addition to the
2 city of Tacoma, State of Washington.

3 **SEC. 12. CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE**
4 **SIOUX TRIBE, AND STATE OF SOUTH DAKOTA**
5 **TERRESTRIAL WILDLIFE HABITAT RESTORA-**
6 **TION.**

7 (a) DISBURSEMENT PROVISIONS OF THE STATE OF
8 SOUTH DAKOTA AND THE CHEYENNE RIVER SIOUX
9 TRIBE AND THE LOWER BRULE SIOUX TRIBE TERRES-
10 TRIAL WILDLIFE HABITAT RESTORATION TRUST
11 FUNDS.—Section 602(a)(4) of the Water Resources De-
12 velopment Act of 1999 (113 Stat. 386) is amended—

13 (1) in subparagraph (A)—

14 (A) in clause (i), by inserting “and the
15 Secretary of the Treasury” after “Secretary”;
16 and

17 (B) by striking clause (ii) and inserting the
18 following:

19 “(ii) AVAILABILITY OF FUNDS.—On
20 notification in accordance with clause (i),
21 the Secretary of the Treasury shall make
22 available to the State of South Dakota
23 funds from the State of South Dakota Ter-
24 restrial Wildlife Habitat Restoration Trust
25 Fund established under section 603, to be

1 used to carry out the plan for terrestrial
2 wildlife habitat restoration submitted by the
3 State of South Dakota after the State cer-
4 tifies to the Secretary of the Treasury that
5 the funds to be disbursed will be used in
6 accordance with section 603(d)(3) and only
7 after the Trust Fund is fully capitalized.”;
8 and

9 (2) in subparagraph (B), by striking clause (ii)
10 and inserting the following:

11 “(ii) AVAILABILITY OF FUNDS.—On
12 notification in accordance with clause (i),
13 the Secretary of the Treasury shall make
14 available to the Cheyenne River Sioux
15 Tribe and the Lower Brule Sioux Tribe
16 funds from the Cheyenne River Sioux Ter-
17 restrial Wildlife Habitat Restoration Trust
18 Fund and the Lower Brule Sioux Terres-
19 trial Wildlife Habitat Restoration Trust
20 Fund, respectively, established under sec-
21 tion 604, to be used to carry out the plans
22 for terrestrial wildlife habitat restoration
23 submitted by the Cheyenne River Sioux
24 Tribe and the Lower Brule Sioux Tribe,
25 respectively, after the respective tribe cer-

1 tifies to the Secretary of the Treasury that
 2 the funds to be disbursed will be used in
 3 accordance with section 604(d)(3) and only
 4 after the Trust Fund is fully capitalized.”.

5 (b) INVESTMENT PROVISIONS OF THE STATE OF
 6 SOUTH DAKOTA TERRESTRIAL WILDLIFE RESTORATION
 7 TRUST FUND.—Section 603 of the Water Resources De-
 8 velopment Act of 1999 (113 Stat. 388) is amended—

9 (1) by striking subsection (c) and inserting the
 10 following:

11 “(c) INVESTMENTS.—

12 “(1) ELIGIBLE OBLIGATIONS.—Notwith-
 13 standing any other provision of law, the Secretary of
 14 the Treasury shall invest the amounts deposited
 15 under subsection (b) and the interest earned on
 16 those amounts only in interest-bearing obligations of
 17 the United States issued directly to the Fund.

18 “(2) INVESTMENT REQUIREMENTS.—

19 “(A) IN GENERAL.—The Secretary of the
 20 Treasury shall invest the Fund in accordance
 21 with all of the requirements of this paragraph.

22 “(B) SEPARATE INVESTMENTS OF PRIN-
 23 CIPAL AND INTEREST.—

24 “(i) PRINCIPAL ACCOUNT.—The
 25 amounts deposited in the Fund under sub-

1 section (b) shall be credited to an account
 2 within the Fund (referred to in this para-
 3 graph as the ‘principal account’) and in-
 4 vested as provided in subparagraph (C).

5 “(ii) INTEREST ACCOUNT.—The inter-
 6 est earned from investing amounts in the
 7 principal account of the Fund shall be
 8 transferred to a separate account within
 9 the Fund (referred to in this paragraph as
 10 the ‘interest account’) and invested as pro-
 11 vided in subparagraph (D).

12 “(iii) CREDITING.—The interest
 13 earned from investing amounts in the in-
 14 terest account of the Fund shall be cred-
 15 ited to the interest account.

16 “(C) INVESTMENT OF PRINCIPAL AC-
 17 COUNT.—

18 “(i) INITIAL INVESTMENT.—Each
 19 amount deposited in the principal account
 20 of the Fund shall be invested initially in el-
 21 igible obligations having the shortest matu-
 22 rity then available until the date on which
 23 the amount is divided into 3 substantially
 24 equal portions and those portions are in-
 25 vested in eligible obligations that are iden-

1 tical (except for transferability) to the
2 next-issued publicly issued Treasury obli-
3 gations having a 2-year maturity, a 5-year
4 maturity, and a 10-year maturity, respec-
5 tively.

6 “(ii) SUBSEQUENT INVESTMENT.—As
7 each 2-year, 5-year, and 10-year eligible
8 obligation matures, the principal of the
9 maturing eligible obligation shall also be
10 invested initially in the shortest-maturity
11 eligible obligation then available until the
12 principal is reinvested substantially equally
13 in the eligible obligations that are identical
14 (except for transferability) to the next-
15 issued publicly issued Treasury obligations
16 having 2-year, 5-year, and 10-year matu-
17 rities.

18 “(iii) DISCONTINUANCE OF ISSUANCE
19 OF OBLIGATIONS.—If the Department of
20 the Treasury discontinues issuing to the
21 public obligations having 2-year, 5-year, or
22 10-year maturities, the principal of any
23 maturing eligible obligation shall be rein-
24 vested substantially equally in eligible obli-
25 gations that are identical (except for trans-

ferability) to the next-issued publicly
issued Treasury obligations of the matu-
rities longer than 1 year then available.

“(D) INVESTMENT OF INTEREST AC-
COUNT.—

“(i) BEFORE FULL CAPITALIZA-
TION.—Until the date on which the Fund
is fully capitalized, amounts in the interest
account of the Fund shall be invested in el-
igible obligations that are identical (except
for transferability) to publicly issued
Treasury obligations that have maturities
that coincide, to the greatest extent prac-
ticable, with the date on which the Fund
is expected to be fully capitalized.

“(ii) AFTER FULL CAPITALIZATION.—
On and after the date on which the Fund
is fully capitalized, amounts in the interest
account of the Fund shall be invested and
reinvested in eligible obligations having the
shortest maturity then available until the
amounts are withdrawn and transferred to
fund the activities authorized under sub-
section (d)(3).

1 “(E) PAR PURCHASE PRICE.—The price to
 2 be paid for eligible obligations purchased as in-
 3 vestments of the principal account shall not ex-
 4 ceed the par value of the obligations so that the
 5 amount of the principal account shall be pre-
 6 served in perpetuity.

7 “(F) HIGHEST YIELD.—Among eligible ob-
 8 ligations having the same maturity and pur-
 9 chase price, the obligation to be purchased shall
 10 be the obligation having the highest yield.

11 “(G) HOLDING TO MATURITY.—Eligible
 12 obligations purchased shall generally be held to
 13 their maturities.

14 “(3) ANNUAL REVIEW OF INVESTMENT ACTIVI-
 15 TIES.—Not less frequently than once each calendar
 16 year, the Secretary of the Treasury shall review with
 17 the State of South Dakota the results of the invest-
 18 ment activities and financial status of the Fund dur-
 19 ing the preceding 12-month period.”; and

20 (2) in subsection (d)(2), by inserting “of the
 21 Treasury” after “Secretary”.

22 (c) INVESTMENT PROVISIONS FOR THE CHEYENNE
 23 RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE
 24 TRUST FUNDS.—Section 604 of the Water Resources De-

1 velopment Act of 1999 (113 Stat. 389) is amended by
 2 striking subsection (c) and inserting the following:

3 “(c) INVESTMENTS.—

4 “(1) ELIGIBLE OBLIGATIONS.—Notwith-
 5 standing any other provision of law, the Secretary of
 6 the Treasury shall invest the amounts deposited
 7 under subsection (b) and the interest earned on
 8 those amounts only in interest-bearing obligations of
 9 the United States issued directly to the Funds.

10 “(2) INVESTMENT REQUIREMENTS.—

11 “(A) IN GENERAL.—The Secretary of the
 12 Treasury shall invest each of the Funds in ac-
 13 cordance with all of the requirements of this
 14 paragraph.

15 “(B) SEPARATE INVESTMENTS OF PRIN-
 16 CIPAL AND INTEREST.—

17 “(i) PRINCIPAL ACCOUNT.—The
 18 amounts deposited in each Fund under
 19 subsection (b) shall be credited to an ac-
 20 count within the Fund (referred to in this
 21 paragraph as the ‘principal account’) and
 22 invested as provided in subparagraph (C).

23 “(ii) INTEREST ACCOUNT.—The inter-
 24 est earned from investing amounts in the
 25 principal account of each Fund shall be

transferred to a separate account within the Fund (referred to in this paragraph as the ‘interest account’) and invested as provided in subparagraph (D).

“(iii) CREDITING.—The interest earned from investing amounts in the interest account of each Fund shall be credited to the interest account.

“(C) INVESTMENT OF PRINCIPAL ACCOUNT.—

“(i) INITIAL INVESTMENT.—Each amount deposited in the principal account of each Fund shall be invested initially in eligible obligations having the shortest maturity then available until the date on which the amount is divided into 3 substantially equal portions and those portions are invested in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having a 2-year maturity, a 5-year maturity, and a 10-year maturity, respectively.

“(ii) SUBSEQUENT INVESTMENT.—As each 2-year, 5-year, and 10-year eligible

obligation matures, the principal of the maturing eligible obligation shall also be invested initially in the shortest-maturity eligible obligation then available until the principal is reinvested substantially equally in the eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations having 2-year, 5-year, and 10-year maturities.

“(iii) DISCONTINUATION OF ISSUANCE OF OBLIGATIONS.—If the Department of the Treasury discontinues issuing to the public obligations having 2-year, 5-year, or 10-year maturities, the principal of any maturing eligible obligation shall be reinvested substantially equally in eligible obligations that are identical (except for transferability) to the next-issued publicly issued Treasury obligations of the maturities longer than 1 year then available.

“(D) INVESTMENT OF THE INTEREST ACCOUNT.—

“(i) BEFORE FULL CAPITALIZATION.—Until the date on which each Fund

1 is fully capitalized, amounts in the interest
 2 account of the Fund shall be invested in eli-
 3 gible obligations that are identical (except
 4 for transferability) to publicly issued Treas-
 5 ury obligations that have maturities that
 6 coincide, to the greatest extent practicable,
 7 with the date on which the Fund is expected
 8 to be fully capitalized.

9 “(ii) AFTER FULL CAPITALIZATION.—

10 On and after the date on which each Fund
 11 is fully capitalized, amounts in the interest
 12 account of the Fund shall be invested and
 13 reinvested in eligible obligations having the
 14 shortest maturity then available until the
 15 amounts are withdrawn and transferred to
 16 fund the activities authorized under sub-
 17 section (d)(3).

18 “(E) PAR PURCHASE PRICE.—The price to
 19 be paid for eligible obligations purchased as in-
 20 vestments of the principal account shall not ex-
 21 ceed the par value of the obligations so that the
 22 amount of the principal account shall be pre-
 23 served in perpetuity.

24 “(F) HIGHEST YIELD.—Among eligible ob-
 25 ligations having the same maturity and pur-

1 chase price, the obligation to be purchased shall
 2 be the obligation having the highest yield.

3 “(G) HOLDING TO MATURITY.—Eligible
 4 obligations purchased shall generally be held to
 5 their maturities.

6 “(3) ANNUAL REVIEW OF INVESTMENT ACTIVI-
 7 TIES.—Not less frequently than once each calendar
 8 year, the Secretary of the Treasury shall review with
 9 the Cheyenne River Sioux Tribe and the Lower
 10 Brule Sioux Tribe the results of the investment ac-
 11 tivities and financial status of the Funds during the
 12 preceding 12-month period.”.

13 **SEC. 13. LAKE TRAVERSE RESERVATION HEIRSHIP.**

14 (a) IN GENERAL.—Public Law 98–513 is amended
 15 by striking section 5 (98 Stat. 2413) and inserting the
 16 following:

17 **“SEC. 5. INHERITANCE OF SMALL FRACTIONAL INTERESTS.**

18 “(a) DEFINITION OF SMALL FRACTIONAL INTER-
 19 EST.—In this section, the term ‘small fractional interest’
 20 means an undivided trust or restricted interest in a parcel
 21 of land within the reservation that—

22 “(1) represents less than 5 percent of the entire
 23 undivided ownership of the parcel of land (as re-
 24 flected in the decedent’s estate inventory as of the

1 date on which the decisionmaker enters the final de-
 2 cision determining heirs); and

3 “(2) does not exceed the equivalent of 2½ acres
 4 if the interest were to be expressed in terms of its
 5 proportionate share of the total acreage of the parcel
 6 of land of which the interest is a part.

7 “(b) **INTESTATE INHERITANCE IN GENERAL.**—Not-
 8 withstanding section 3, no small fractional interest shall
 9 pass by intestate succession under this Act or any other
 10 provision of law except as provided in subsection (c).

11 “(c) **INHERITANCE BY TRIBE.**—If a person dies pos-
 12 sessed of a small fractional interest that has not been de-
 13 vised in accordance with subsection (d) to 1 or more eligi-
 14 ble devisees described in that subsection, the small frac-
 15 tional interest shall pass to the Tribe, with title to the
 16 interest to be held by the United States in trust for the
 17 Tribe.

18 “(d) **INHERITANCE BY TESTAMENTARY DEVISE.**—

19 “(1) **ELIGIBLE DEVISEES.**—Notwithstanding
 20 any other provision of this Act, and subject to para-
 21 graph (2), a small fractional interest may be devised
 22 only to the following eligible devisees:

23 “(A) The tribe.

24 “(B) Any person who is a member, or eli-
 25 gible to be a member, of the tribe.

1 “(2) REQUIREMENTS.—No devise of a small
2 fractional interest shall be valid as to a devisee un-
3 less—

4 “(A) the devisee is eligible to receive the
5 interest by devise under paragraph (1);

6 “(B) the devisee is expressly identified in
7 the devise by name; and

8 “(C) the devise is made in a will that has
9 been approved by the Secretary of the Interior
10 in accordance with section 2 of the Act of June
11 25, 1910 (36 Stat. 856, chapter 431).

12 “(3) HOLDING IN TRUST.—Any small fractional
13 interest devised in accordance with this subsection
14 shall pass to the devisee or devisees on the death of
15 the testator, with title to be held by the United
16 States in trust for the devisee or devisees.”.

17 (b) NOTICE TO LANDOWNERS; CERTIFICATION.—

18 (1) NOTICE.—Not later than 180 days after the
19 date of enactment of this Act, the Secretary shall
20 provide notice of the amendment made by subsection
21 (a) to owners of trust and restricted interests in
22 land within the Lake Traverse Indian Reservation
23 by—

24 (A) posting written notice of the amend-
25 ment at the administrative headquarters of the

1 Sisseton-Wahpeton Sioux Tribe of North Da-
 2 kota and South Dakota and at the Agency of
 3 the Bureau of Indian Affairs located in Agency
 4 Village, South Dakota;

5 (B) publishing the notice not fewer than 4
 6 times in newspapers of general circulation in all
 7 counties in which any part of the Lake Tra-
 8 verse Indian Reservation is located; and

9 (C) sending the notice by first class mail
 10 to the last known addresses of Indians with in-
 11 terests in trust or restricted land within the
 12 Lake Traverse Indian Reservation for whom the
 13 Secretary has such an address.

14 (2) CERTIFICATION.—After providing notice
 15 under paragraph (1), the Secretary shall—

16 (A) certify that notice has been given in
 17 accordance with that paragraph; and

18 (B) publish notice of the certification in
 19 the Federal Register.

20 (c) EFFECTIVE DATE.—

21 (1) EFFECT ON INTERESTS.—The amendment
 22 made by subsection (a) shall not affect any interest
 23 in the estate of a person who dies before the date
 24 that is 1 year after the date on which the Secretary

1 publishes notice of the certification under subsection
2 (b)(2).

3 (2) EFFECT ON WILLS.—The amendment made
4 by subsection (a) shall not affect the validity or ef-
5 fect of any will executed before the date that is 1
6 year after the date on which the Secretary publishes
7 notice of the certification under subsection (b)(2).

8 **SEC. 14. AMENDMENT OF DEFINITION.**

9 Section 2(9) of Public Law 101–601 (25 U.S.C.
10 3001(9)) is amended by inserting “or was” after “is”.

Calendar No. 751

108TH CONGRESS
2D Session

S. 2843

A BILL

To make technical corrections to laws relating to
Native Americans, and for other purposes.

SEPTEMBER 30, 2004

Reported with amendments